

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

06 OCT 18 PM 3:44

ANNETTE SPICER,
545 Lowell Street, Apt. 5
Cincinnati, OH 45222

Plaintiff,

-vs-

BOTH CORPORATION
c/o statutory agent Beth O. Hodges
535 Lexington Ave.
Newport, KY 41071

and

JOHNNIE BRYON DEVAULT
6816 Corbly Road, Apt. 211
Cincinnati, OH 45230

Defendants

Case No.: **1:06 CV 693**

SPIEGEL, J.

COMPLAINT AND JURY DEMAND

This is an action for housing discrimination under the Fair Housing Act of 1968, 42 U.S.C. §§ 3604(a) and (c), 3613; the federal civil rights laws, 42 U.S.C. §§ 1981 and 1982; and the Ohio anti-discrimination law, Ohio Revised Code § 4112.02(H)(1).

Plaintiff seeks compensatory and punitive damages and declaratory and injunctive relief against defendants for their acts of housing discrimination based on race.

JURISDICTION AND VENUE

1. Jurisdiction over this action lies pursuant to 28 U.S.C. §§ 1331, 1337, and 1343(a)(4). This Court has jurisdiction over the state claims under 28 U.S.C. § 1367.
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), as the cause of action arose in this District, and one of the defendants resides in this District.

3. This case properly is brought in the Western Division of this Court and in Cincinnati, pursuant to Rule 82.1 (S.D. Ohio 2006).

PARTIES

4. Plaintiff, Annette Spicer, is a resident and citizen of Ohio.

5. Defendant Both Corporation is a Kentucky corporation. Its principal place of business in Newport, Kentucky. Both Corporation owns apartment units at 4102 Eastern Avenue, Cincinnati, Ohio.

6. Defendant Johnnie Bryon DeVault is a resident of Ohio.

7. Upon information and belief, during the events described below, Mr. DeVault was Both Corporation's rental agent.

FACTS

8. Ms. Spicer is Black. Mr. DeVault is White.

9. Ms. Spicer has an uncle named Raymond Spicer. He is Black. In January of 2005, he worked with Mr. DeVault.

10. In January of 2005, Raymond learned from Mr. DeVault that Both Corporation had an apartment vacancy for rent at 4102 Eastern Avenue, Cincinnati, Ohio. He understood from Mr. DeVault that Mr. DeVault lived at the property and was showing the apartment to prospective tenants on behalf of Both Corporation.

11. On January 29, 2005, Ms. Spicer visited the property with her aunt, Zetta Spicer. No one answered the door. There was a "For Rent" sign on the property that gave a phone number to call regarding the vacancy. Ms. Spicer and Zetta called the number on

the sign and left a message expressing Ms. Spicer's interest in renting the apartment and giving Zetta's mobile phone number to return the call.

12. After leaving the voice mail message, Ms. Spicer and Zetta went to Richard Spicer's home. Richard is another of Ms. Spicer's uncles. Raymond was present at Richard's home when Ms. Spicer and Zetta arrived. While at Richard's home, Zetta received a return phone call from Mr. DeVault.

13. During that conversation, Mr. DeVault told Zetta that he would not permit Ms. Spicer to see or rent the apartment, but that she could "live in the shed and pick his cotton." He also referred to Zetta, Ms. Spicer, and the uncles as a "bunch of f***** niggers."

14. Mr. DeVault made several other phone calls to Zetta's mobile phone that day. He spoke with Raymond and Richard and left two voice mail messages during which he repeated the same sentiments using the same language described above. The voice mail messages have been preserved.

15. When engaged in the actions described above, Mr. DeVault was an agent of Both Corporation and Both Corporation is liable for his conduct.

16. As a direct and proximate result of defendants' discriminatory conduct toward plaintiff, plaintiff has suffered and will continue to suffer increased expenses, emotional distress, humiliation, indignity, and loss of civil rights.

17. The above-described actions of defendants were motivated by malicious intent.

COUNT I: VIOLATION OF FAIR HOUSING ACT

18. All previous paragraphs are incorporated herein.
19. By refusing to rent, show, negotiate for rental, or by otherwise making unavailable or denying plaintiff a rental property because of the plaintiff's race, and by making discriminatory statements, defendants violated the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (c).

COUNT II: VIOLATION OF 42 U.S.C. §1981-82

20. All previous paragraphs are incorporated herein.
21. The above-described actions constitute violations of 42 U.S.C. §§ 1981-82.

COUNT III: VIOLATION OF STATE LAW

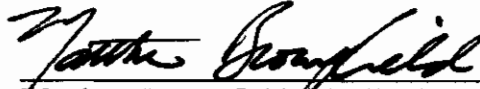
22. All previous paragraphs are incorporated herein.
23. The above-described actions constitute violations of Ohio Revised Code § 4112.02(H)(1).

WHEREFORE, plaintiff seeks the following relief:

- A. A declaration that defendants' actions were unlawfully discriminatory.
- B. An order permanently enjoining defendants from discriminating in the rental of real property in the future.
- C. An order requiring that defendants and their agents attend, at their own expense, a training course on fair housing requirements with such training course to be provided or supervised by Housing Opportunities Made Equal, Inc.
- D. Compensatory damages against defendants in an amount to be determined at trial.

- E. Punitive damages against the defendants in an amount to be determined at trial.
- F. Costs, including expenses and attorney fees, pursuant to 42 U.S.C. § 1985(3) or any other applicable provision of law.
- G. Such other relief as the Court deems necessary to make plaintiff whole.

Respectfully submitted,



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JURY DEMAND

Plaintiff demands a jury as to all issues of fact involved in this case.

